

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

---

APPLETON PAPERS INC. and NCR CORP.,

Plaintiffs,

v.

Case No. 08-C-16

GEORGE A. WHITING PAPER CO., et al.,

Defendants.

---

**ORDER DENYING MOTION TO SUPPLEMENT RECORD**

---

Defendant U.S. Paper Mills has filed a motion seeking to supplement the record on appeal so that it includes numerous briefs, proposed findings of fact, affidavits, and the like that were part of this court's consideration of related action Case No. 09-C-910, which is also on appeal. Plaintiff API does not oppose U.S. Paper's motion, but asks that additional filing in No. 09-C-910 be added as well. Neither party claims the court relied on filings in No. 09-C-910 in rendering any ruling in No. 08-C-16 or vice versa. Under these circumstances, there is no basis upon which to grant the motion. *See* FRAP 10(e).

It is nevertheless conceivable that the Court of Appeals would, in considering *this* appeal, refer to matters in the related action. They are related cases, and both are on appeal. Indeed, the Court of Appeals may decide to consolidate them. The record in each case is so unwieldy as it is that I am reluctant to expand the record in either unless a manifest need is demonstrated. No such need has been demonstrated here. The filings made in this case are matters of public record, and presumably therefore the Court of Appeals may take judicial notice of any of these filings, all of

which are available on the public docket. *Laborers' Pension Fund v. Blackmore Sewer Const., Inc.*, 298 F.3d 600, 607 (7th Cir. 2002). I therefore will decline the request to require that these materials be added to an already lengthy record. The motion to supplement is therefore **DENIED**.

**SO ORDERED** this 1st day of August, 2011.

s/ William C. Griesbach  
William C. Griesbach, Chief Judge  
United States District Court